REMARKS

Claims 1-10, 20-25, and 27-30 are pending. Claims 1, 10, and 20 have been amended.

Rejection under 35 U.S.C. § 103

Claims 1, 2, 7, 8, 10, 20, and 30 stand rejected under 35 U.S.C. § 103 as being obvious over U.S. Patent No. 6,389,028 to Bondarenko et al. ("Bondarenko") in view of U.S. Patent Pub. No. 2003/0061354 to Burg et al. ("Burg"). Claims 3-6, 9, 21-24, and 27-29 stand rejected under 35 U.S.C. § 103 as being obvious over various combinations of Bondarenko, Burg, U.S. Patent No. 5,999,965 to Kelly ("Kelly"), U.S. Patent No. 6,335,744 to Korilis et al. ("Korilis"), and U.S. Patent No. 6,226,287 to Brady ("Brady").

As the PTO recognizes in MPEP § 2143, "[t]o establish a prima facie case of obviousness, ... the prior art reference (or references when combined) must teach or suggest all the claim limitations." (emphasis added). Furthermore, under MPEP § 2142, "[i]f the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness."

Claims 1-10, 20, and 30

Claim 1, as amended, recites in part placing the call into a queue while maintaining a connection between the ACD server and the user for the call; and sending, by the user at any time while the maintained call is in the queue, a dynamic request to the ACD server to determine at least one of the following queue information selected from the group consisting of a user's queue position, holding times, and other related queue data. The current amendments to claim 1 clarify what Applicant submits was previously contained in claim 1 – that a connection is maintained while in the queue. In contrast, Bondarenko discloses that "his original call attempt is terminated once his virtual queue position is established" (col. 11, lines 39-42). In fact, this difference is explicitly recognized by the Examiner on page 3 of the Office action. Applicant submits that not only does Bondarenko fail to teach or suggest each element of claim 1 as required by MPEP § 2143, but the other cited references fail to remedy this deficiency of Bondarenko. Accordingly,

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claim 1 is allowable over the cited references. Claims 2-9 depend from and further limit claim 1 and are therefore allowable for at least the same reason as claim 1.

Claims 10, 20, and 30 include similar limitations to those of claim 1, described above, and are therefore allowable for at least the same reasons as claim 1.

Claims 21-25 and 27-29

Claim 21 recites, in part, responsive to the user terminating the call before the ACD server transfers the call to a live agent, tracking how much time the user has been on hold and prioritizing the user within the queue the next time the user calls back. To render this element of claim 21 obvious, the Office action relies on Kelly. More specifically, the Office action on page 13 states that Kelly teaches "an abandoned call tracking feature for recording the amount of time a user has waited before abandoning the call, and transferring the information to an agent for callback, (col. 20, lines 53-57); a call prioritizing feature that prioritizes users within a queue depending on how much time a user has been on hold, (col. 21, lines 54-67, col. 22, lines 1-2)." The Examiner then states on pages 13-14 of the Office action that "[a]lthough not expressly stated, it would have been obvious to a person, at the time of the present invention, to use the recorded abandoned call information to prioritize the user within a queue, the next time the user calls back." However, the cited text of Kelly states:

> Abandoned Call Tracking--Abandoned calls or hangups are not transferred from the queues to agents. However, call waiting time till hangup statistics may be kept. In addition, caller information is recorded allowing the ACD server 300 to route the hangups to agents for callback. (col. 20, lines 53-57)

> Call Control Vectoring (CCV) on Split Basis--Call Control Vectoring allows the user to configure their ACD to route calls to various queues or splits. Each split may be configured with its own call routing algorithms.

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CCV based on Queue Depth--Support for CCV based on queue statistics. Queues reaching certain levels of activity or call hold time to Agent on duty ratios result in alternate CCV to other backup call centers, announcements, or backup/alternate agent strategies.

CCV based on Assigned Agent Priority--assigned to a particular split can be additionally assigned a priority that influences CCV. A collection of Agents assigned the same priority are routed calls equally. As split depths increase, lower priority agents from other splits, working at remote sites, working from home, etc. can be routed calls as needed to satisfy customer needs. (col. 21, lines 54-67, col. 22, lines 1-2)

Applicant respectfully traverses that the cited text of Kelly teaches or suggests the elements stated by the Examiner. For example, the Examiner states that Kelly discloses "a call prioritizing feature that prioritizes users within a queue depending on how much time a user has been on hold" in col. 21, lines 54-67, col. 22, lines 1-2. However, the cited text discloses only that "[q]ueues reaching certain levels of activity or call hold time result in alternate CCV." Nowhere does the cited text teach or suggest tracking how much time the user has been on hold and prioritizing the user within the queue the next time the user calls back, as recited by claim 21.

Moreover, Applicant submits that the Examiner has failed to show that it would have been obvious to use the cited text of Kelly, which relies upon "queue statistics" and "agent priority" for "Call Control Vectoring," to use the recorded abandoned call information to prioritize the user within a queue the next time the user calls back. Applicant submits that the statement that "[t]his would make the link server more robust, and would facilitate a users desired interaction with an agent," as recited on page 14 of the Office action, is not sufficient motivation and, as has been stated previously, is improper hindsight reasoning. In fact, the passage of Kelly cited in the Office action in support of the Examiner's contention states that "ACD server 300 comprises multiple software modules which collectively enable all facets of

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call progress and call handling to be controlled by ACD server 300. Specifically, ACD Server 300 comprises a graphic user interface 302, control center module 304, voice response module 306, call routing module 308, network interface 310, WebPhone client 314, a memory 316 and an optional database 312." (col. 10, lines 60-63). Applicant submits that this text fails to support the Examiner's contention that it would be obvious to use the recorded abandoned call information to prioritize the user within a queue the next time the user calls back.

Furthermore, the references of Bondarenko and Burg, when combined with Kelly, fail to remedy the above described deficiencies of Kelly. Accordingly, claim 21 is allowable over the cited references. Claims 22-25 and 27-29 depend from and further limit claim 21 and are therefore allowable for at least the same reason as claim 21.

Claims 3, 5, and 6

Each of claims 3, 5, and 6 stand rejected under Kelly in light of Bondarenko and Burg. Claim 3 recites, in part, subsequent to disconnection of at least one call from the user in response to a user directive, calling back the user when the ACD server has determined priority based on a number of times that the user has called and an accumulated wait time. Claim 5 recites, in part, wherein the user terminates the call before the ACD transfers the call to a live agent, the ACD further tracking how much time the user has been on hold and crediting the user an appropriate amount of time the next time the user calls back. Claim 6 recites, in part, wherein the user terminates the call before the ACD transfers the call to a live agent, the ACD further tracks how much time the user has been on hold and prioritizes the user within the queue the next time the user calls back.

Applicant submits that the combination of Kelly, Bondarenko, and Burg fails to teach or suggest each of claims 3, 5, and 6 as required by MPEP § 2143 for the same reason that the cited combination fails to teach or suggest claim 21, as discussed above. Accordingly, claims 3, 5, and 6 are allowable over the cited references for this additional reason.

Conclusion

It is respectfully submitted that all the claims in the application are in condition for allowance. Should the Examiner deem that any further amendment is needed to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the below listed telephone number.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 12, 2005.

[signature]

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